

**COUNCIL OF TAXATION SECTION
MINUTES OF REGULAR MEETING**

June 17, 2010

A regular meeting of the Council of the State Bar of Michigan Taxation Section was held on June 17, 2010 at 3:00 PM at the Thomas M. Cooley Law School located at 2630 Featherstone, Auburn Hills, Michigan. Ronald T. Charlebois, Chairperson of the Taxation Section, presided.

COUNCIL MEMBERS PRESENT

Ronald T. Charlebois	Warren Widmayer
Gina M. Torielli	Christopher Ballard
John M. O'Hara	Jess A. Bahs
Marjorie B. Gell	Wayne Roberts
Paul V. McCord	Gary Remer

COUNCIL MEMBERS ABSENT

David Walters	Lynn A. Gandhi
Gary Glenn	Michael Domanski

COMMITTEE CHAIRPERSONS PRESENT

Marla S. Carew

COMMITTEE CHAIRPERSONS ABSENT

Alex Domenicucci	Tom Shaevsky
George V. Cassar	Peter Kulick

OTHERS PRESENT

Deb Michaelian	Jeff Kirkey
Eric Skinner	(Rob Heitmeier did not attend)

Council Chairperson, Ronald T. Charlebois, called the meeting to order at approximately 3:15 PM.

MINUTES

The Minutes of the April 29, 2010 meeting of the Council had been previously distributed. After minor corrections, the motion by Gina Torielli, seconded by Chris Ballard, to accept the Minutes as revised was unanimously carried.

TREASURER'S REPORT

Warren Widmayer provided his report as Treasurer. Warren Widmayer indicated that the Treasury is doing well. Tax Section is under budget for expenses. Warren Widmayer stated that committee expenses are way below budgeted amounts and he encouraged committees to evaluate whether they need to spend funds. He also mentioned that

employee benefits, which has spent \$2,100 already, has also raised significantly more than their expenses due to fee-paid seminars.

Warren Widmayer indicated that the conference numbers are in and being processed and that facilitator fees also are under budget. Tax Court luncheon is under budget as well and there are no further 2010 Tax Court luncheons planned at this point. Across the financial statements, expenses are down and Warren Widmayer believes that an anticipated deficit for 2010 likely will be less than expected because of these lower than expected expenses.

A motion to approve the Treasurer's report was made by Gina Torielli, seconded by Ronald Charlebois, and unanimously approved.

COUNCIL ACTIVITIES

1. Continuing Professional Education - After Hours Tax Law Series – Jeff Kirkey and Gary Glenn.

Jeff Kirkey discussed the After Hours Tax Program and the updated seminar topics and seminars for 2010. Jeff Kirkey reviewed in detail the topics of upcoming seminars and discussed confirmed and targeted speakers for each topic.

2. Tax Court Luncheon – David Walters. David Walters was absent and provided no report.

3. 2010 Tax Conference – John O'Hara. John O'Hara

John O'Hara discussed sponsors and potential sponsors for the Annual Tax Conference. John O'Hara also reviewed the financial information from the 23rd Annual Tax Conference, which was held on May 10, 2010. John O'Hara went over speaker involvement, along with the expenses paid for speakers. Potential additional expenses may arise for Department of Treasury official mileage, but these expenses have not been submitted for payment as of June 17.

John O'Hara mentioned the honorarium for speakers, i.e., Ira Sheppard, and the honorarium was discussed. John O'Hara proposed a resolution to give Ira Sheppard \$1,000 honorarium.

Ronald Charlebois indicated that Council could pay Lea Basha a \$1,000 honorarium for her participation, and this amount would come out of the Estate Tax Committee (50/50). Ronald Charlebois made a Motion to pay Ira Sheppard \$1,000. This amount is to be paid by Tax Council. The amount to be paid to Lea Basha, \$1,000, is to be shared 50/50 between Council and Estate Tax Committee. Ronald Charlebois made the motion to pay these stipends and Marjorie Gell seconded the motion. Motion carried unanimously.

Jeff Kirkey reviewed the 23rd Annual Tax Conference program and speakers and gave a generally favorable review. Jeff Kirkey discussed the temperature problems and difficulties, but generally had favorable comments. The attendance, financial results, participation and speakers – speaker reviews were then reviewed by Jeff Kirkey. Jeff Kirkey indicated that the reviews scored 6.2 out of 7 on the rating scale, which is good. Jeff Kirkey went over revenues of approx \$14,000 and expenses of \$10,399, with a net of

approximately \$3,601. Deb Michaelian stated that 2009 conference had 141 paid registrants plus 11 students. This year, there were 126 paid registrations.

The facility in Novi/Rock Financial was discussed and the venue generally was reviewed unfavorably when compared to St. Johns. Jeff Kirkey indicated that the score was approximately 3 or 4 to 1 with the 3 or 4 preferring St. John's.

2011 Annual Tax Conference. Gary Remer reviewed plans for 2011, with an initial focus on location of the conference, along with potential web-based attendance at other parts of the State (e.g., Grand Rapids location like Cooley Law School campus). Gary Remer is pursuing this idea and logistics further and is reviewing with Jeff Kirkey from ICLE. Another alternative, which would be a webcast offered live, was discussed as a potential offering.

Gary Remer discussed the potential for sponsorship from CCH and CT Corporation for next year's conference. Gary Remer is pursuing these potential sponsors and will report back to the group with progress. Gary Remer and Jeff Kirkey reviewed potential additional sponsorship ideas for specific types of lower sponsorship levels.

Deb Michaelian reviewed the contract issues and related matters that involve the State Bar of Michigan approvals. These required approvals cause administrative difficulties and delay issues that need to be addressed.

Ronald Charlebois then dismissed Deb Michaelian and Jeff Kirkey so Council could discuss ICLE's involvement in 2011 conference. Ronald Charlebois stated that ICLE would offer \$6,000 service if Tax Section provided AV on its own. This was the approach used in 2010. Ronald Charlebois compared this approach with an ICLE "full service" staffing in which ICLE adds A/V service (with a 10% room and food service discount). The comparison of cost by Ronald Charlebois indicated that ICLE's full service would be the less expensive option – as long as the Tax Section kept control over food selection and related optional items. Ronald Charlebois suggested that the Tax Council should choose the full service option for \$10,000 and to use St. John's.

Deb Michaelian booked May 19, 2011 for next year's conference. Tax Council generally agrees that Deb Michaelian should be involved to coordinate the conference through ICLE and to make all food and other optional issues – similar to prior years.

MOTION re CONFERENCE: Gina Torielli made a Motion to authorize Ronald Charlebois entering into a full service contract with ICLE (base fee of \$10,000) and to hold the conference at St. Johns with a proposed date of May 19, 2011. John O'Hara seconded the motion. The motion carried unanimously.

4. Directory – Marjorie Gell. Marjorie Gell attended via teleconference from the Thomas M. Cooley law school in Grand Rapids. Per Marjorie Gell, the directory is up to date, on the website and password protected. The publicly-available contact information (e.g., IRS, Dept. of Treasury) is also posted and updated on the website. Marjorie Gell requested Committee updates.

Marjorie Gell is posting grant recipients on the website and also preparing a manual that describes policy and procedure used to manage directory and website matters. Marjorie Gell also requested pictures for the website.

5. Michigan Bar Journal Liaison – Paul McCord. Paul McCord reported recent advertisements regarding Annual Meeting.
6. Michigan Tax Lawyer – Lynn A. Gandhi. Lynn Gandhi was absent but provided the following written report.

The Spring issue is finally done, waiting on final proof which should be ready tomorrow. Lynn Gandhi asked that we please remind everyone that September 1 is the deadline for the Fall article, which we should all try to meet, so that the Fall issue can be printed timely!

7. Internet – Marjorie Gell. Marjorie Gell combined internet report with directory report above.
8. Federal and State Legislation – Paul McCord. Paul McCord discussed his written summary of federal legislation. Paul McCord reviewed some of the substantive tax changes and mentioned some of the pending changes to the existing federal act – the bill is being modified and likely will be changed more.

Paul McCord referenced the recent Kmart “fix” that we discussed at the last meeting. Paul McCord referenced the retroactive tax legislation issues presented by this Kmart bill, and also the pending bad debt cases, which have had their petitions for Certiorari denied by the Michigan Supreme Court.

Paul McCord also discussed the current classification appeals and a pending bill that would allow taxpayers to appeal classification issues.

9. Public Policy Liaison – Paul McCord. Paul McCord included this in his prior segment.
10. Membership Outreach Coordinator - David Walters. David Walters was absent and provided no report.
11. Annual Chairpersons’ Dinner – David Walters. David Walters was absent and provided no report. Annual Chairperson’s Dinner is September 16, 2010.

12. Grant Program – David Walters. David Walters was absent and provided no report.

PROBATE AND ESTATE PLANNING SECTION LIAISON REPORT

Lorraine F. New was absent, but provided the following written report:

The Probate and Estate Planning Section has adjourned for the summer. However, of note is the estate tax presumption of decedent's intent bill which has passed the state house and moved to the senate judiciary committee on June 2. House Bill 6197 would allow decedent's estates to use 2009 estate tax guidelines to allow for marital or charitable deductions intended when documents were written.

STATE BAR OF MICHIGAN LIAISON REPORT

Lambro Niforos – Absent. No report. Apparently, Lambro Niforos no longer is the liaison.

According to reports to Ronald Charlebois, John Hubbard will be the Tax Section's new State Bar Liason. Neither John Hubbard nor Lambro Niforos were present.

IRS AREA COUNSEL LIAISON REPORT

Eric Skinner was present and provided a review of IRS training objectives – which are focused on S corporations and international transfer pricing issues. Eric Skinner discussed the focus on transfer pricing and the fact that the CPA firms are handling most of the matters. The new IRS office has been located at: 1 Detroit Center on Woodward Avenue 10th -13th floor (Council and Appeals on 13th Floor). 120,000 square feet on contiguous floors. June 1 is the target move-in date for now.

Eric Skinner indicated that IRS generally is limited as to discussions of uncertain tax positions and health care issues due to developing matters in these areas.

PROGRAM FACILITATOR REPORT

Deb Michaelian had no report.

COMMITTEE ACTIVITIES

Business Entities – Alex Domenicucci

Alex Domenicucci was absent but submitted the following written report.

Alex Domenicucci is planning a business entities meeting/event to discuss recent administrative and legislative developments that will significantly impact business entities. Alex Domenicucci indicated that he expects the topics to include:

- (1) the IRS's proposal regarding the reporting of uncertain tax positions;
- (2) the codification of the economic substance doctrine;

- (3) the new 3.8% health insurance tax on passive investment income and the 0.9% increase in employment taxes on certain taxpayers;
- (4) the legislation regarding the taxation of carried interests, if it's enacted into law (which appears will happen in the coming weeks); and
- (5) the legislation regarding the new employment tax treatment of S corporation shareholder/employees, if it's enacted into law (which appears will happen in the coming weeks).

Alex Domenicucci is trying to find a speaker for this business entities meeting/event. Alex Domenicucci's report asked the Council members if they know of anyone who might be interested in speaking on one or more of the above topics.

Employee Benefits – Thomas Shaevsky

Tom Shaevsky was absent but submitted the following written report.

1. During the employee benefits committee breakout session at the annual taxation section conference, David Fuller of Morgan, Lewis, & Bockius spoke about the new IRS audit initiative targeting worker misclassification.
2. Tom Shaevsky is in the process of trying to partner with other organizations to jointly sponsor some events for the 2010-2011 year. Partnering with other organizations provides new networking opportunities for committee members and allows the costs of the event to be shared.
3. Tom Shaevsky received a tentative commitment from one individual to write an employee benefits article for the fall edition of the *Michigan Tax Lawyer*.

Estates and Trusts – George Cassar

George Cassar was absent and had no report.

Practice and Procedure – Peter Kulick

Peter Kulick was absent. Peter Kulick's activities are discussed in the written report that follows:

1. Michigan Tax Conference - reaction was positive from all individuals I have spoken to. Kudos to Michael Domanski for running the panel discussion and helping to organize a slate of speakers.
2. Have discussed with Michael Domanski and Eric Skinner to co-host a Practice and Procedure Committee meeting to provide an overview of recently enacted legislation that addresses reporting of interests in offshore financial accounts. Will engage further discussions in an effort to identify a time and place to hold the meeting. Would like to be able to hold the meeting "offsite" in the metro Detroit area and possibly include a reception as part of the program to help foster attendance. We also want to actively reach out to IRS representatives to attend and/or participate, to the extent possible.

State and Local – Marla S. Carew

Marla Carew briefly discussed the planned meeting in Lansing that has become an annual Michigan Department of Treasury/State Bar Taxation Section reception. Marla Carew also discussed transfer tax issues and the issues with real estate law and tax law.

International Law – Michael Domanski

Mike Domanski was absent and had no report.

OLD BUSINESS

Michigan Tax Tribunal Reform proposals. The State Bar Taxation Section reform proposal (copy attached) was reviewed by Ronald Charlebois and Wayne Roberts. Ronald Charlebois indicated that the revised proposal was received well by Judge Halm. Ronald Charlebois indicated that the bifurcation of judges as attorneys and non-attorneys for different types of cases had some appeal to the Tax Tribunal. The pre-payment requirement does not appear to have support from Judge Halm, but the Tax Section Council discussion reaffirmed that this issue needs to be addressed and that Tax Section will continue to support elimination of this pre-payment of the tax requirement (i.e., the requirement to go to the Court of Claims). This proposal is moving slowly.

Alvin Storrs Memorial. Ronald Charlebois discussed the \$100 contribution that was made to a charity on behalf of Alvin Storrs.

No other old business per Ronald Charlevoix.

NEW BUSINESS

Ronald Charlebois discussed Treasurer Kleine's recognition that the Services tax is dead for this term in 2010. Reports indicate that there is not sufficient support to approve a services tax at this point. The services tax may be re-introduced in November during Lame Duck or in 2011, and potentially through a retroactive enactment.

Ronald Charlebois discussed tenancy by the entirety and how to collect from non-obligor spouse. The current 6th Circuit appeal addressing this issue is pending and an Amicus Brief has been requested of Council. The timing does not allow much opportunity to respond, and there was a discussion of both Craft and Hatchett.

There being no further business, upon motion duly made by Gina Torielli, seconded by Marla Carew and unanimously approved, the meeting was adjourned at approximately 4:50 PM.

Respectfully submitted,

Wayne D. Roberts
Secretary